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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,023	07/10/2001	Walter H. Mawby	2051-00101	9285
23505	7590	10/25/2004	EXAMINER	
CONLEY ROSE, P.C. P. O. BOX 3267 HOUSTON, TX 77253-3267			TRAN, KHOA H	
			ART UNIT	PAPER NUMBER

3634

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,023

Applicant(s)

MAWBY ET AL.

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4 and 14-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 18 and 23 is/are allowed.
6) ☒ Claim(s) 2,4,14-17 and 20-22 is/are rejected.
7) ☒ Claim(s) 19 and 24 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 21 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Drawings

The proposed drawings correction and/or the proposed substitute sheets of drawings, filed on June 21, 2004 have been approved.

However, the drawings are objected to because Figure 1 fails to illustrate reference numeral "62" as described on line 3, paragraph [0020a]. Further, it is unclear how reference numerals "51", "66", "68", "69", "70" and "72" in Figures 5 and 6 will be presented on Figure 1 in order to better understand where are the described structures located on a plan view, i.e., the first tunnel walls 66 having a first length 68 with a drive aisle opening 51 and 65 and the second tunnel walls 69 having a second length 70 and drive aisle opening 72 therethrough. Correction is required.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, and 14-17, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. (U.S. Patent No. 6,405,496) in view of Cerutti et al. (U.S. Patent No. 4,407,609). Stewart et al. disclose a structure (500) comprising a substructure (501) having a drive aisle (512, 512a, 512b) and a plurality of parking spaces (508, 510) and comprises a plurality of parallel adjacent tunnels that create two parking spaces next to each other, see Figure 13, each tunnel including a transverse drive aisle opening (512), the substructure further includes a plurality of first tunnel walls (parking space tunnels 510 including the drive aisle 512) having a first length, the drive aisle openings in the first tunnel walls being wide enough to accommodate a parking space in addition to the drive aisle; and a plurality of second tunnel walls (parking space tunnels 508) having a second length that is less than the first length because they do not include the drive aisle; and a plurality of parking spaces, the parking spaces being configured such that a set of three adjacent tunnels includes at least four parking spaces;

an interface level (531) comprising a plurality of parallel adjacent tunnels, see Figure 14, the interface level including a plurality of third tunnel walls (parking space tunnels 536 includes the drive aisle (518b) vertically aligned above the first tunnel walls and having a third length that is as great as the first length; and a plurality of fourth tunnel walls (parking space tunnels 508) vertically aligned with the second tunnel walls having a fourth length; and

a superstructure, see Figure 15, comprising a plurality of parallel adjacent tunnels having walls that are each vertically aligned with one of the first and second tunnel walls and wherein each first tunnel wall is separated from another first tunnel wall by a pair of second tunnel walls in the middle of the structure, see Figure 14.

Cerutti et al. teach a method of poured-in-place concrete tunnel, see claimed 12. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to utilize a well-known and notoriously old method of poured-in-place concrete to form the tunnels of Stewart et al. as taught by Cerutti et al. in order to prevent flotation of the concrete since it is well-within the level of skill in the art to utilize the known features of the art for the purpose for which they are known.

Allowable Subject Matter

Claims 18 and 23 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 19 and 24 are objected to as being dependent upon a rejected base claim.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 18 and 23 are allowed because there is no prior art of record that teaches or suggests a residential with parking structures possessing the entire combination of features specified by the claims. In particular, while features may be individually known, there is no teaching or suggestion of "three parking spaces being configured such that a middle one of said three spaces is centered under the first tunnel wall that is disposed between said adjacent pairs of second tunnel walls", see claims 18 and 23, lines 3-5. Further, there is no suggestion or motivation from the prior art to make the proposed modification to combine that would render the prior art invention being modified satisfactory for its intended purpose.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Gray, H. P. Sturges, Ruemmele, and Zaretti are cited to show a structure that has similar configurations of design to applicants' invention.

Response to Arguments

Applicants' arguments filed on June 21, 2004, have been fully considered but they are not deemed to be persuasive.

With respect to applicants' arguments that Stewart et al. (U.S. Patent No. 6,405,496) do not teach or suggest "a set of three adjacent tunnels includes at least four parking spaces", the examiner respectfully disagrees. It should be noted Figure 14 of Stewart et al. illustrates three sets of adjacent tunnels that each tunnel contain 2 parking

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spaces (536), thus the combine of three adjacent tunnels would contain at least four parking spaces.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun, can be reached on (703) 308-2156. The fax phone number for this Group before a final Office action is (703) 872-9306 and after a final Office action is (703) 872-9327.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT

Khoa Tran

October 17, 2004



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER